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September 16, 2020

Via ECF

The Honorable Colleen McMahon

United States District Court

Southern District of New York

500 Pearl Street

New York, New York 10007

Re: No. 1:20-cv-5878 (CM); *J.T., et al. v. de Blasio, et al.*

Dear Judge McMahon:

We represent Austin Independent School District (Austin ISD), located in the State of Texas, and have appeared *pro hac vice* in the above-referenced matter on its behalf. *See* Dkt. Nos. 58, 60. We have now also been retained to represent Leander Independent School District (Leander ISD), also located in the State of Texas, but have not yet moved to appear *pro hac vice* on its behalf. Please note that by filing this advisory letter neither Austin ISD nor Leander ISD submits to this Court's jurisdiction and both maintain that this Court lacks personal and subject matter jurisdiction in this matter as it relates to Austin ISD and Leander ISD.

Related to the letters filed by other counsel (Dkt. Nos. 110, 120), and Your Honor's subsequent and recent Order to Show Cause and Sua Sponte Temporary Restraining Order (Dkt. No. 128), we write to advise the Court of further ethical concerns regarding the conduct of plaintiffs' counsel. Specifically, Mr. Albert filed a request for a due process hearing on behalf of named-Plaintiffs C.N. and V.N. from Leander ISD that was subsequently dismissed because the parent stated, on the record, that it was filed without their consent or approval. *See* Order Granting Petitioner's Motion to Dismiss with Prejudice in Docket No. 312-SE-0820, attached as Exhibit A. The attached Order details

September 16, 2020

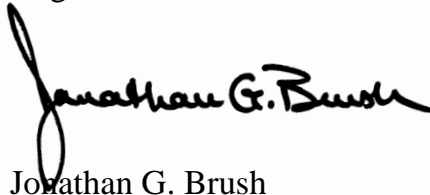
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the relevant facts, and it clearly shows that at least one due process hearing was filed by Mr. Albert in Texas without the parents' consent.

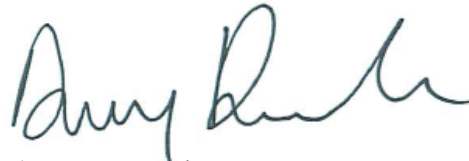
Although we are aware that this Court already issued a show cause order and temporary restraining order against Mr. Albert regarding similar allegations, we believe it is our obligation as officers of the Court to advise the Court of this specific incident of misconduct as it relates to named-Plaintiffs C.N. and V.N.

Very truly yours,

Rogers, Morris & Grover, L.L.P.

A handwritten signature in black ink that reads "Jonathan G. Brush". The signature is written in a cursive style with a large initial 'J'.

Jonathan G. Brush

A handwritten signature in blue ink that reads "Amy Demmler". The signature is written in a cursive style with a large initial 'A'.

Amy Demmler

Attachment: Exhibit A

cc: All Counsel of Record (Via ECF)



EXHIBIT A

Sandy Lowe, Attorney at Law

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Telephone 512-699-4501
Fax 888-453-0548

September 2, 2020

C [REDACTED] N [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

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Peter Albert & Patrick Donohue
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New York, NY 10128
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Re: **V.N. v. Leander Independent School District**
Docket No. 312-SE-0820

Dear Parties:

Attached is *Order Granting Petitioner's Motion to Dismiss with Prejudice*. If you have any questions, please contact me.

Sincerely,



Sandy Lowe
Special Education Hearing Officer

cc: Texas Education Agency

Ann Berry, Court Reporter

Kimberly Waltmon

DOCKET NO. 312-SE-0820

V [REDACTED] N, b/n/f C [REDACTED] N. <i>Petitioner</i>	§	BEFORE A SPECIAL EDUCATION
	§	
v.	§	HEARING OFFICER FOR THE
	§	
LEANDER INDEPENDENT SCHOOL DISTRICT <i>Respondent</i>	§	
	§	STATE OF TEXAS

ORDER GRANTING PETITIONER'S MOTION TO DISMISS WITH PREJUDICE

Petitioner, V [REDACTED] N, ("the student") by next friend, C [REDACTED] N. ("the parent"), filed a complaint requesting an impartial due process hearing pursuant to the Individuals with Disabilities Education Improvement Act ("IDEA"). The complaint was received by the Texas Education Agency on August 17, 2020.

The parties convened for a telephonic pre-hearing conference on September 2, 2020. C [REDACTED] N [REDACTED] parent of the student, appeared on behalf of Petitioner, Kelly Janes, attorney, with Walsh Gallegos Trevino Russo & Kyle, appeared on behalf of Respondent. The attorneys filing this case, Patrick Donohue and Peter Albert, with the Brain Injury Rights Group, Ltd., New York NY, failed to appear at the pre-hearing conference. Gay Denton, certified court reporter, with Ann Berry, CSR, transcribed the proceedings.

Parent Unaware Due Process Hearing Request Filed

On the record, during the pre-hearing conference, the parent informed the tribunal that her first knowledge that a due process hearing had been filed was when she was informed of an email from this hearing officer sent on September 1, 2020, reminding the parties of the pre-hearing conference to be conducted on September 2, 2020. The parent stated that she received an email in July 2020 from Patrick

Donohue requesting that she speak by telephone with Mr. Donohue and Peter Albert, the attorneys filing this due process hearing, regarding her daughter and a class action lawsuit. The parent did not respond to the email from Mr. Donohue and did not speak with Mr. Donohue or Mr. Albert.


Motion to Dismiss

On September 2, 2020, while on the record, during the pre-hearing conference, Petitioner Parent made a motion that the due process hearing in Docket No. 312-SE-0820, *V. [REDACTED] N. b/n/f/ C. [REDACTED] N. v. Leander Independent School District*, filed on August 17, 2020 by Patrick Donohue and Peter Albert of the Brain Injury Rights Group, Ltd., New York, NY, without permission or knowledge of Petitioner Parent be Dismissed with Prejudice.

After reviewing the motion and finding it meritorious, Petitioner's motion is GRANTED.

Therefore, Docket No. 312-SE-0820, *V. [REDACTED] N. b/n/f/ v. Leander Independent School District*, is ORDERED to be dismissed with prejudice.

SIGNED on September 2, 2020


Sandy Lowe
Special Education Hearing Officer
For the State of Texas